

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

GORDON TODD SKINNER,)	
)	
Plaintiff,)	
vs.)	NO. CIV-06-1207-HE
)	
J. SCIBANA, ET AL.,)	
)	
Defendants.)	

ORDER

Plaintiff Gordon Skinner, a *pro se* federal prisoner, instituted this Bivens¹ action against the warden and another employee of the prison where he was incarcerated. Pursuant to 28 U.S.C. § 636(b)(1)(B), this matter was referred to Magistrate Judge Robert E. Bacharach. In an order granting plaintiff leave to proceed *in forma pauperis*, Magistrate Judge Bacharach allowed plaintiff until December 4, 2006 to voluntarily dismiss the action without prejudice and without incurring any fees or costs. During a telephonic conference, plaintiff stated that he did not receive the order for several weeks and made an oral motion to dismiss the case without prejudice. Magistrate Judge Bacharach recommended that plaintiff's motion to dismiss without prejudice be granted and that any further payments toward the filing fee be waived.

Defendants have not objected to the Report and Recommendation and, therefore, have waived their right to appellate review of the factual and legal issues it addressed. United States v. One Parcel of Real Property, 73 F.3d 1057, 1059-60 (10th Cir. 1996). *See*


¹Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971).

28 U.S.C. § 636(b)(1); LCvR 72.1(a). The court has also considered the merits of the action and substantially concurs with the Magistrate Judge's analysis.

Accordingly, the court **ADOPTS** the Report and Recommendation, **GRANTS** plaintiff's oral motion to dismiss the action without prejudice to refile, and **WAIVES** any further payments toward the filing fee.

IT IS SO ORDERED.

Dated this 15th day of February, 2007.



JOE HEATON
UNITED STATES DISTRICT JUDGE